IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 26TH FEBRUARY 2007 / 7TH PHALGUNA 1928

WP(C).No. 23502 of 2006(W)

PETITIONER:

1. **C.T.JOHNSON, S/O.K.C.THOMAS,**
   AGED 42 YEARS, PHYSICAL EDUCATION TEACHER,
   C.M.S. HIGHER SECONDARY SCHOOL, MALLAPPALLY,
   TIRUVALLA EDUCATIONAL DISTRICT.

2. **EBY CHACKO, S/O.V.C.CHACKO,**
   AGED 29 YEARS, PHYSICAL EDUCATION TEACHER,
   C.M.S. HIGH SCHOLL, PUNNAVELI.

BY ADV. SRI.V.A.MUHAMMED
SRI.K.E.HAMZA

RESPONDENTS:

1. **THE STATE OF KERALA REPRESENTED BY THE**
   SECRETARY TO GOVERNMENT, GENERAL EDUCATION
   DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. **THE DIRECTOR OF PUBLIC INSTRUCTION**
   JAGATHY, TRIVANDRUM-14.

3. **THE DEPUTY DIRECTOR OF EDUCATION,**
   ALAPPUZHA.

4. **THE DISTRICT EDUCATIONAL OFFICER,**
   TIRUVALLA.

5. **THE CORPORATE MANAGER,**
   C.M.S. SCHOOLS, KOTTAYAM.

BY ADV. SRI.BABU VARGHESE
BY GOVERNMENT PLEADER SMT.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C NO. 23502/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE PROCEEDINGS ORDER NO.1078/04 OF THE MANAGER OF THE SCHOOL.

EXT.P2:- COPY OF THE ORDER NO.B3-8233/04/K. DIS. OF THE DY.DIRECTOR OF EDN.

EXT.P3:- COPY OF THE REPRESENTATION FILED BEFORE THE DIST. EDL. OFFICER, THIRUVALLA.

EXT.P4:- COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN WP(C) NO.8060/06.

EXT.P5:- COPY OF THE ORDER NO.B6-3705/06/K. DIS. OF THE DIST. EDL. OFFICER.

EXT.P6:- COPY OF THE G.O.(RT) NO.254/01/G. EDN. OF THE GOVERNMENT.

/TRUE COPY/

tss

K.M.JOSEPH, J.

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WP.(C) No.23502 OF 2006

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Dated this the 26th day of February, 2007

JUDGMENT

Petitioners challenge Ext.P5 to the extent it orders payment of salary subject to refund of pay and allowances drawn by the junior most Physical Education Teacher. Counsel for the petitioners points out that Ext.P5 would show that the salary of the petitioners has been directed to be released and therefore the condition imposed in Ext.P5 cannot be sustained.

Today when the matter came up, it is submitted by the learned Government Pleader Smt. M.R.Sreelatha that she has instructions to the effect that the excess salary paid to the teachers amounting to Rs.86,676/- has already been fixed as the liability of the Headmistress and therefore there can be no objection in payment of the salary to the petitioners.

On the basis of the submission made by the learned Government Pleader, I quash Ext.P5 to the extent that salary to the petitioners is made conditional upon refund of the pay and allowances drawn by the

junior-most physical education teacher and there will be a further direction to pay the due salary to the petitioners without any delay.

The writ petition is allowed as above.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.